

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

JEFF POFF,

Plaintiff,

v.

LIEUTENANT FISHER, et al.

Defendants.

ORDER

22-cv-238-wmc

The court held an evidentiary hearing on September 28, 2023, to address plaintiff's motion for sanctions (dkt. #46) and his motion for an extension of the discovery cutoff (dkt. #106). Plaintiff Jeff Poff appeared for himself and defendant Janet Fisher appeared personally and by Wisconsin Assistant Attorneys General Brad Soldon and Brandon Flugaur. For the reasons stated at the hearing, plaintiff's motions are GRANTED in part and DENIED in part as follows:

The court RESERVES ruling on whether to allow a spoliation instruction, but plaintiff will be able to argue at trial that at least two officers present during the use-of-force incident underlying this case failed in their obligation per Department of Corrections policy to turn on their body cameras. The parties may brief the spoliation instruction issue and the scope of what plaintiff may argue to the jury about the officers' obligations in their pretrial submissions.

As for the discovery cutoff, it is extended for ten days to allow defense counsel to produce for purposes of this lawsuit only: (1) any sanction in the personnel files of Officers Brian Hagensick, Jackson Moravits, and Quinn Warner for failing to turn on their body cameras during any incident at WSPF; (2) the work schedule and sign in sheet (or equivalent) for third shift on July 14, 2020, at WSPF; (3) any video of the security suite

from 9:00 a.m. to 10:30 a.m. on July 14, 2020, or alpha group meeting room video on that date, that shows Jaime Adams, James Boisen, or plaintiff; and (4) the names of any inmates who were in cells 402 and 403 on July 14, 2020, at approximately 6:00 a.m. Defense counsel is directed to advise the court when these materials are produced to plaintiff, indicate what was produced, and if not produced as directed, explain why.

Entered this 29th day of September, 2023.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge